

Burdick, Melanie

From: Melanie Burdick <Burdick.Melanie@epamail.epa.gov>
Sent: Monday, January 05, 2015 4:26 PM
To: Burdick, Melanie
Subject: Fw: [MEPMiningCluster] Re: Phone Conference with U.S. EPA -Questions

Melanie Haveman
U.S. EPA (ww-16j)
77 W. Jackson Blvd
Chicago, Illinois 60604
312-886-2255

----- Forwarded by Melanie Burdick/R5/USEPA/US on 01/05/2015 04:26 PM -----

From: Kenneth Westlake/R5/USEPA/US
To: Simon Manoyan/R5/USEPA/US@EPA, Michael Sedlacek/R5/USEPA/US@EPA, James Grimes/R5/USEPA/US@EPA, Barbara Wester/R5/USEPA/US@EPA, Thomas Poleck/R5/USEPA/US@EPA, Christine Wagener/R5/USEPA/US@EPA, Melanie Haveman/R5/USEPA/US@EPA
Date: 05/24/2011 09:22 AM
Subject: Fw: [MEPMiningCluster] Re: Phone Conference with U.S. EPA -Questions

Here are additional questions that will be raised on our call with the Minnesota environmental groups on Thursday, 5/26. Simon previously sent their initial package of questions. Come this afternoon to our pre-meeting at 1:00 pm in room 1910, prepared to discuss what to say in response to these sets of questions.

Ken

----- Forwarded by Kenneth Westlake/R5/USEPA/US on 05/24/2011 09:15 AM -----

From: "Kristin "
To: Kenneth Westlake/R5/USEPA/US@EPA
Date: 05/23/2011 02:29 PM
Subject: Fw: [MEPMiningCluster] Re: Phone Conference with U.S. EPA -Questions

More questions for our Thursday mtg

Thank you
Kristin
218 310 6023

Blackberry so please excuse my typos

From: Kathryn Hoffman
Date: Mon, 23 May 2011 13:56:06 -0500
To: 'kristinl55803@gmail.com'
Subject: RE: [MEPMiningCluster] Re: Phone Conference with U.S. EPA - Questions

Kristin,

Sorry for the late reply. Here are some questions from MCEA for EPA about Polymet:

Here are some specific questions based on EPA's earlier comments on the DEIS:

1. Your comment on the DEIS noted a number of concerns with water quality impacts from the project. You divided the comments geographically – mine site, facility, and downstream/cumulative impacts. Your concerns included, for example, the adequacy of waste rock characterizations and management through categorizing, effectiveness of unproven techniques to reduce oxidation of waste rock, mobilization of Hg in the Lake Superior watershed, the wastewater treatment facility and with the wetlands treatment strategy, long-term impacts from the pit overflow, the inadequacy of the hydrogeological assessment of impacts to groundwater at the mine site. That the plant/tailings basin site, your comments mainly focused on impacts from the tailings basin (groundwater/wetland connections and surface water impacts). The comments also address the lack of adequate water quality impact analysis on downstream waters and raise the issue of sulfates and the wild rice standard.
 - a. Are there any additional issues that EPA has identified since the DEIS comment?
 - b. How has PolyMet addressed the mine site issues? Where does EPA still have concerns?
 - c. How about at the tailings basin?
 - d. Does EPA believe and NPDES permit is needed for surface water impacts resulting from tailings basin seeps/ground water connections?
 - e. What is EPA's position on the wild rice standard?
2. Your comment noted several concerns with wetland impacts, the failure to account for wetland function, failure to consider feasible alternatives (underground mine), possibility for water quality violations and inability to permit under regs, underestimation of indirect impacts.
 - a. Are there any additional issues related to wetlands that have been discovered?
 - b. How has PolyMet/USACE addressed the insufficiencies noted?
 - c. Describe the process by which EPA reviews the Corps permit and possible outcomes. What opportunities do citizens have for input?
3. Your comment noted concern with Hg emission from the autoclave, is PolyMet considering controls?
4. Your comment noted the absence of financial assurance information. What type of financial assurance does EPA recommend? Examples from other projects?
5. The Supplemental DEIS will evaluate the Forest Service land exchange. What issues has EPA spotted with regard to the land exchange?

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From: mep-mining-cluster@googlegroups.com [<mailto:mep-mining-cluster@googlegroups.com>] **On Behalf Of** KL
Sent: Wednesday, May 18, 2011 9:45 AM
Cc: MEP Mining Cluster
Subject: [MEPMiningCluster] Re: Phone Conference with U.S. EPA - Questions

Hi Folks

Please give some thought to the questions that have been suggested for the conversation with the EPA. All have been forwarded to Mr. Westlake

How much time do we want to take for the meeting? I have 3 hours blocked off - does that seem like a suitable time frame?

Agenda items thus far

Epa's role on Polymet going forward

Process – what we've heard from the DNR is it will be fall before Draft EIS - What is the time frame you perceive?

What kind of analysis have been done leading up to the new version of the Polymet EIS, has it been computer modeling or data gathering in field.

What do you see with process of designation of St Louis River watershed / ARNI and how can we support it?

How do we support the federal government fulfilling its trust responsibility to tribal interests in the process. So far the DNR and Army corps are perceived as marginalizing the voice of the Tribal interests

Planning a follow up meeting

WaterLegacy Questions for U.S. EPA (May 2011)

SDEIS PROCESS

Timing & Process:

- What is the current projected date for release of the Supplemental DEIS (SDEIS)?
- What is the U.S. EPA's role in the development of the PolyMet Draft Alternative?
- What is the U.S. EPA's role in the development of the SDEIS? Are there any issues in your rating letter of February 2010 that you believe are not being addressed adequately so far?
- When would the U.S. EPA make a determination as to whether the wetlands and vegetated shallows impacted by the PolyMet project are aquatic resources of national importance?
- Is there any process used by the U.S. EPA to obtain additional information from members of the public, tribes as to whether these waters should be designated ARNI?
- Is the U.S. EPA involved in evaluating the proposed land exchange for the PolyMet project? If so, how?

Financial Assurance:

- When will the U.S. EPA's draft rules on financial assurance in hardrock mining be issued?
- Will the Supplemental DEIS include analysis of financial assurance?
- If so, in connection with financial assurance, what assumptions are being made as to the length of time that active water quality treatment will need to take place?
- What closure and post-closure care are being considered?
- What actuarial protocol is there for "perpetual treatment" of effluent water or other post-closure care?

INVESTIGATION

Hydrology:

- What additional hydrological study has been done to determine potential impacts to surface water from in-pit disposal of wastes at the PolyMet mine, groundwater/surface exchange, water drawdown and other potential impacts to water quality and quantity?
- What additional study has been done to determine degree of fracture in bedrock at the PolyMet site?
- What additional study has been done to determine connection between groundwater and surface water at the PolyMet mine site?

Wetlands:

- We have been informed that the characterization of geology and hydrology thus far is insufficient to calculate with any certainty in the SDEIS the indirect impacts on wetlands of water draw down. Please comment.
- We have also been told that the worst case would be that there would be a drawdown of 30 feet, which experts say would potentially desiccate thousands of acres of wetlands. Please comment on this statement.
- Will this worst case analysis be included in the SDEIS?
- Are there documents reflecting this worst case analysis of indirect wetland impacts?
- We have been informed that there has been additional work done to delineate the nature of the wetlands that would be affected by the PolyMet project.
- What are the overall findings resulting from this work?
- What documents reflect these findings?
- Is additional work being done regarding wetlands delineation?

Wild Rice:

- From EPA's perspective, will the 10 mg/L wild rice sulfate standard apply to the PolyMet SDEIS regardless of legislative action this session? From EPA's perspective, is there any 2011 legislative directive that could alter, void or suspend the standard?
- What data is being used to assess which receiving waters are waters used for the production of wild rice to evaluate where the wild rice standard will apply? What is the EPA's role in reviewing this assessment?
- The DEIS recently issued by the U.S. Forest Service in connection with hard rock processing identified certain conditions under which a wild rice stand would be a Traditional Cultural Property.
- For the PolyMet project, are wild rice stands being considered Traditional Cultural Property? What resources potentially impacted by the PolyMet project are being considered Traditional Cultural Properties?

Waste Rock Piles:

- What analysis is being done of the reactivity of Category 1 waste rock, proposed to be left in an unlined permanent stockpile at the PolyMet site?
- What analysis and modeling has been done considering the potential of disseminated sulfates to "seed" the leaching process?

Dunka Mine:

- Is the U.S. EPA reviewing the data and NPDES permitting of the Dunka Mine to evaluate requirements for stockpiles, collection and treatment of discharge and/or to evaluate long-term efficacy and cost of water quality treatment?
- If so, what does this process entail and what is the timing?
- Does the U.S. EPA believe that the experience of the Dunka Mine in Duluth Complex rock should be used as a field test to determine cost and efficacy of compliance?

In Situ Disposal:

- What analysis has been done of the efficacy of *in situ* “aqueous” disposal of Category 2, 3 and 4 waste rock in terms of preventing oxidation and release of contaminants to groundwater and surface water?
- What analysis has been done of leaching and exceedance of water quality standards irrespective of acidity, e.g. in a pH circumneutral situation?
- What analysis has been done of existing fractures and groundwater migration in bedrock at the PolyMet mine site?
- What analysis has been done of fractures in bedrock after blasting and other extraction activities in similar rock?
- What analysis has been done of the water quality at existing *in situ* disposal sites, including those in Minnesota, such as the Filson Creek bulk sample site and the Minn Amax and Inco sites?

Brines:

- What information does the U.S. EPA have from PolyMet’s on-site borings (66 drill holes completed as of April 2010) regarding the presence of brackish waters or brines on site?
- What analysis has been done to evaluate the likelihood of brines at the site?
- What analysis has been done to determine which actions would need to be taken to prevent brines from contaminating groundwater, surface water or both?
- Has the Minn Amax site been specifically studied regarding impacts of brines on surrounding wetlands and surface waters?

Tailings Basin

- What investigation and analysis of existing pollutants in the basin will be done?
- Is the U.S. EPA recommending a specific percentage of seepage capture and treatment from the tailings basin?
- If so, what is this requirement based upon?
- What data is being used to estimate the leaching of nickel, arsenic and other toxic metals irrespective of acidic conditions?
- Is an analysis being done explicitly recognizing that the flotation recovery of metals will leave significant concentrations (approximately 25% of the nickel, absent plastol) in the flotation tailings?
- Is the U.S. EPA recommending that the SDEIS include an analysis of the impacts on water quality of catastrophic failure of the tailings basin embankments?

Research - General

- Overall, other than reconfiguring the PolyMet project alternative, please identify all new substantive research that has been done to determine impacts of the PolyMet project since the DEIS was released, including a) who did the research; b) under the supervision of what entity; c) the nature of the research; d) the date on which it was completed; e) identification of the document(s) in which that research is reported.

Hazardous Waste

- Is a Phase II VIC analysis being conducted for the Tailings Basin site?
- What investigation and remediation is being required at the Tailings Basin site to prevent listing on the National Priorities List as a Superfund Site?
- What level of inaction or petition would trigger treatment of the Tailings Basin as a Superfund Site?
- Is the Hydrometallurgical Residue Facility (HRF) being treated as a hazardous waste disposal site in terms of RCRA requirements?
- If not, has the HRF been analyzed to determine that it is not a hazardous waste disposal facility? Are there documents reflecting that analysis?

- In either case, how does the Hydrometallurgical Residue Facility in the Draft Alternative differ from that in the DEIS?

On 5/13/2011 4:44 PM, Paula Maccabee wrote:
Hello, Kristin:

You had asked whether groups had questions for the U.S. EPA prior to the conference on May 26, 2011. WaterLegacy has developed a number of questions which we would like to address to U.S. EPA staff. We have included them in the attached document.

Our perspective is that it is more important to obtain information than to try and conceal whatever strategy might be implied by the fact that we are asking these questions. For the most part, we and other groups have already made comments or communicated in other ways (e.g. our letters on ARNI and the Dunka Mine) highlighting the areas with which we are concerned.

We would welcome any feedback others might have. We would not object to your forwarding the questions to Ken Westlake ahead of time to enable staff to better respond to questions. Please, however, let me know if you are thinking of editing them before sending.

If I am difficult to reach this week, please feel free to leave a voice mail or text message on my cell phone.

Best regards,

Paula Maccabee, Esq.
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Attorney for Water Legacy

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